IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 12473 of 2004

Between:

Pappala Tirumala Rao, s/o Suryanarayana,
r/o Vemulavalasa Village, Anandapuram Mandal,
Visakhapatnam District.

..... PETITIONER

AND

1 The Commissioner of Cooperation and Registrar of Cooperative Societies, A.P., Gruhakalpa Building, Hyderabad.
2 The District Cooperative Officer, Visakhapatnam District, Visakhapatnam.
3 The Divisional Cooperative Officer, Visakhapatnam District, Visakhapatnam.
4 Panduranga Primary Agricultural Co.op.Society, C.No.B-1679, Vemulavalasa Village,
Anandapuram Mandal, Visakhapatnam District, rep., by its Person-in-Charge.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order of direction more particularly one in the nature of writ of mandamus declaring the proceedings in Rc.No.2471/2002-B dated 18-6-2004 of the 3rd respondent and the consequential proceedings dated 24-6-2004 of the 4th respondent as highly illegal, arbitrary, unjust and void and consequently set aside the same

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondent No.1 to 3: GP FOR COOPERATION

Counsel for the Respondent No. 4 : None appears for R-4

The Court at the admission stage made the following :

THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

WRIT PETITION NO. 12473 OF 2004

ORAL ORDER:

The petitioner was initially appointed as a Paid Secretary on 07.06.1977 in the Lakshmipuram Primary Agricultural Cooperative Society. After introduction of single Window system, the petitioner was allotted to the 4th respondent-society on permanent basis with effect from 16.06.1990 and he has been working in the said society since then. The 4th respondent-Panduranga Primary Agricultural Cooperative Society, through the proceedings dated 04.02.2003, placed the petitioner under suspension alleging that there was cash totalling discrepancy to a tune of Rs.2,38,910/- and in spite of the order of the 4th respondent, the petitioner failed to repay the said amount to the society. During the period of suspension, the petitioner filed W.P.No.25280 of 2003 before this Court to declare that the action of the respondents in continuing the petitioner under suspension and non-payment of subsistence allowances to him, as illegal. The said petition was admitted and this Court through the order dated 03.12.2003 in W.P.M.P.No.31844 of 2003 in WPNo.25280 of 2003, directed the respondents to pay the subsistence allowance to the petitioner. Subsequently, on 24.06.2004, the 4th respondent sent the impugned order communicating that the petitioner was removed from service in pursuance of the orders of the 3rd respondent in Rc.No. 2471/2002-B dated 18.06.2004 on the ground that the petitioner misappropriated the funds of the 4th respondent-society.

The petitioner contends that he was not furnished any copy of the order dated 18.06.2004, removing him from service. He further contended that since no charges were framed against him, and no enquiry was conducted, the impugned order is liable to be set aside.

It is contended on behalf of the respondents that as per bye-law number 19 of the

society, the employees working under the society are liable for minor and major punishments. Since the 3rd respondent directed the 4th respondent to terminate the services of the petitioner on the ground of misappropriation of the society funds, the order can not be questioned by the petitioner through this writ petition and the petitioner has to avail the remedy provided under bye-law No.20 by way of preferring an appeal to the 3rd respondent.

The learned Counsel for the petitioner submitted that whenever the concerned authorities take a decision to terminate the services of an employee, they are expected to follow the principles of natural justice and the procedure prescribed under the Rules and the Act. As the respondents failed to follow the said procedure and abruptly issued the impugned order removing the petitioner from service, the impugned order is liable to be quashed.

Though a detailed counter has been filed on behalf of the respondents, there is no mention whether any show cause notice issued to the petitioner, whether any charges were framed against him, whether any opportunity was given to him before imposing the major penalty of terminating him from the service. Since the respondents failed to follow the principles of natural justice and the Rules and the provisions of the Act, the impugned order is liable to be quashed.

The writ petition is accordingly allowed. The impugned order dated 24.6.2004 issued by the 4th respondent, terminating the services of the petitioner is hereby quashed. The 4th respondent is at liberty to initiate an enquiry as per the Rules against the petitioner and give him sufficient opportunity and to pass appropriate orders as the circumstances of the case require. No order as to costs.

Dr. G. YETHIRAJULU, J

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TO

1. The Commissioner of Cooperation and
Registrar of Cooperative Societies, A.P.,
Gruhakalpa Building, Hyderabad.

2. The District Cooperative Officer,
Visakhapatnam District,
Visakhapatnam.

3. The Divisional Cooperative Officer,
Visakhapatnam District,
Visakhapatnam

4. The Person-in-charge,
Panduranga Primary Agricultural Cooperative
Society, C.No. B-1679, Vemulavalasa Village,
Anandapuram Mandal,
Visakahpatnam Dsitrict,

5. Two CCs to the Government Pleader
for Cooperation, High Court Buildings,
High Court of Andhra Prudish, Hyderabad
(O.U.T.)

6. 2 CD Copies.